

## REMARKS

the November 17, 2004 Office Action, the Examiner noted that claims 16-25 and 27-30 were pending in the application; objected to claim 22; rejected claims 16-25 and 27-30 under the first paragraph of 35 U.S.C. § 112; and rejected claims 16-25 and 27-30 under 35 U.S.C. § 102(e). In rejecting the claims, U.S. Patent 6,295,449 to Westerlage et al. (Reference A) was cited. Claims 16-25 and 27-30 remain in the case. The Examiner's objection and rejections are traversed below.

### Rejections under 35 U.S.C. §112, First Paragraph

In item 1 on page 2 of the Office Action, claims 16-25 and 27-30 were rejected under the first paragraph of 35 U.S.C. § 112 due to use of the word "intermittent" which is not used in the specification, even though addition of this word was suggested by the Examiner during the November 29, 2004 Examiner Interview. The word "intermittent" has been removed to overcome this rejection. Withdrawal of the rejection under the first paragraph of 35 U.S.C. § 112 is respectfully requested.

### Objection to Claim 22

In item 1 on page 2 of the Office Action, the Examiner objected to claim 22 and required addition of the word --application-- after "rules for". The required change has been made. Therefore, withdrawal of the objection to claim 22 is respectfully requested.

### Rejections under 35 U.S.C. §102

In item 6 on pages 3-7 of the Office Action, claims 16-25 and 27-30 were rejected under 35 U.S.C. § 102(e) as anticipated by Westerlage et al. In making this rejection, it was asserted that Westerlage et al. discloses an "apparatus for data acquisition for a control center" (claim 16, line 1) by the components of Westerlage et al. represented by reference numerals "216, 224" (Office Action, page 3, line 17). However, as clearly seen in Fig. 5 of Westerlage et al., "telecommunications platform 224" (e.g., column 15, line 3) and "communication unit 216" (e.g., column 15, line 3) are not a single "apparatus" as recited in claim 16. Rather, they form a wireless system and the telecommunications platform 224 most closely corresponds to the "control center" with which the apparatus recited in claim 16 interacts. Thus, Westerlage et al. clearly does not anticipate claim 16 and in combining separate components of a prior art system to find the elements of the apparatus recited in claim 16 the Examiner has used impermissible hindsight to reject the claims.

It was also asserted that the "control and monitoring system" (claim 16, line 3) was taught by "modems 300 and 302" (Westerlage et al., column 18, line 38) which the Office Action disingenuously referred to as a "system" (Office Action, page 3, line 20). No explanation was provided regarding how modems would be capable of "directly controlling operational states of a device" (claim 16, line 3). Applicants are unaware of any modem that itself is used to directly control any device. Modems are communication devices and do not themselves have either control or monitoring functions for another device. While control and monitoring data might pass through a modem, the modem itself would not perform the operation recited as being performed by the control and monitoring system recited in claim 16 and the name of this element requires more than a conventional modem.

Furthermore, the modems 300 and 302 are illustrated in Fig. 8 which is described as depicting a "telecommunication platform 224" (column 18, lines 19-20) which as illustrated in Fig. 5 is connected to hosts 226, 228 and, via central mobile telecommunications switching offices (MTSO) 220, to communication units 216. Thus, modems 300 and 302 are part of the component taught by Westerlage et al. that might correspond to the "control center" recited in claim 16, but are not part of anything that corresponds to an apparatus, as discussed above.

The Office Action further asserted that "directly controlling operational states of a device, coupled to said apparatus" (claim 16, lines 3-4) was disclosed at column 22, lines 31-36 and 57-60 of Westerlage et al. with the device corresponding to a "pager/remote ringer" (Office Action, page 3, line 22). The cited portions of column 22 state

data from the central host 226 is delivered through the platform 224 to the communication unit 216, and any data at communication unit 216 is delivered at least to platform 224. Next, the platform 224 requests that communication unit 216 to switch to voice, and rings the user of communication unit 216

and "the user of a communication unit 216 may be provided with a pager/remote ringer, to ensure that he is aware of any voice calls to his communication unit 216." There is no suggestion of any control or monitoring of the "pager/remote ringer" in the cited portions of column 22, only transmission of a signal to alert a user. Nothing has been cited in Westerlage et al. corresponding that performs the operation of "directly controlling and monitoring operational states of a device" as recited in claim 16.

At page 4, line 3, the Office Action cited yet another geographically separate component of the system disclosed by Westerlage et al., "transmission towers 218" (e.g., column 14, line 18) as corresponding to the "transmitting/receiving unit" (claim 16, line 6). It is submitted that the transmission towers cannot correspond to the transmitting/receiving unit, because they are not

part of a single apparatus that includes the other elements recited in claim 16, as discussed above with respect to communications platform 224 and communication units 216.

It is submitted that claim 16 and claims 17-25 and 27-30 which depend therefrom patentably distinguish over Westerlage et al. for the reasons discussed above.

#### Summary

It is submitted that Westerlage et al. does not teach or suggest the features of the present claimed invention. Thus, it is submitted that claims 16-25 and 27-30 are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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